

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:	§	Atty. Docket: DIGI.0001
Daniel A. King	§	
	§	
Serial No.: 10/005,795	§	Examiner: PORTER, RACHEL L.
	§	
Filed November 8, 2001	§	CONFIRMATION NO.: 1407
	§	
Title: CLAIMING SYSTEM AND METHOD	§	Group Art Unit: 3626
	§	

APPELLANT'S APPEAL BRIEF

Board of Patent Appeals and Interferences
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Appellant respectfully requests the Board of Patent Appeals and Interferences to reverse the final rejection of claims 1-18, 27-29, 30-35 and 44 under 35 U.S.C. §103(a), and to reverse the final rejection of claim 45 under 35 U.S.C. §102(e). The present invention as recited in these claims is not obvious in view of the prior art relied upon by the Examiner.

REAL PARTY IN INTEREST

The real party in interest is Daniel A. King.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

Claims 1-18, 27-35 and 44-45 are currently pending and are involved in this appeal.

STATUS OF AMENDMENTS

None of the claims involved in this appeal were amended after the Final Rejection dated March 6, 2009.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 recites method of facilitating the claims and repair process for an insured person (e.g., FIGs 1-4, 105, and page 3, lines 5-9), comprising collecting accident information at birth of an accident (e.g., FIG. 1 and page 3, lines 1-5 and lines 19-20) involving a vehicle that gets damaged (e.g., FIGs 1-2 and 4-5, 103), wherein said collecting accident information includes employing a mapping system to map a surface of a vehicle to generate damage information (e.g., FIG. 5, 503 and FIG. 6, 511, and page 11, lines 5-23), communicating the accident information including the damage information (e.g., FIG. 1, 123, 111, FIG. 2, 211, 111, FIG. 4, 405, 111, and FIG. 5, 507, 111 and page 5, lines 3-6, page 8, 3-15, page 9, lines 17-20, and page 11, lines 13-23) to a remote site (e.g., 113, FIGs 1 and 4), and posting the accident information including the damage information on behalf of the insured person for purposes of selecting repair and supplier parties (e.g., FIG. 8, 801, 802, 111, 803, 811, and page 14, line 10 to page 15, line 19).

Claim 45 recites a claims process method, comprising employing a mapping system to map a surface of a vehicle to generate damage information (e.g., FIG. 5, 503 and FIG. 6, 511, and page 11, lines 5-23), and using the damage information in an attempt to assess complete vehicle damages for claim purposes (e.g., FIG. 1, 113, 115, 117, 125, 127, and page 5, line 17 to page 6, line 7, FIG. 4, 113, 117, 125, 401, 403, and page 9, line 17 to page 11, line 4).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-18, 27-29, 30-35 and 44 are patentable under 35 U.S.C. §103(a) over Freedman et al. (“Freedman” US Pat. App. Pub. 2002/0002475) in view of Mackey et al (“Mackey”, US Pat. No. 6,141,611); and

Whether claim 45 is patentable under 35 U.S.C. §102(e) over Freedman.

ARGUMENT

Appellant respectfully submits that claims 1-18, 27-29, 30-35 and 44 are allowable over Freedman in view of Mackey.

Freedman in view of Mackey does not show collecting accident information at birth of an accident involving a vehicle that gets damaged, in which the collecting of accident information includes employing a mapping system to map a surface of the vehicle to generate damage

information as recited in claim 1. A video camcorder is not a mapping system and is not capable of mapping a damaged vehicle. The mapping of a solid object (e.g., laser scanning or the like) is uniquely and fundamentally different from a video capture device because of its ability to apply mathematical reference points to the surface area, which is known by those of ordinary skill in the art as ‘mapping’. This delineation of mathematical reference points created by a mapping system (e.g., laser scanner or the like) allows for further analysis without human intervention. Video images must be reviewed by a human to assess damage information, which is the method contemplated by Freedman. The mapping process of the present case could not be accomplished by any type of video capture device, whether still or in motion, at the time of filing of the present application. A mapping system provides substantially more information regarding the damage to the vehicle. Although the present invention is not limited to the particular embodiments shown and described in the application as filed, Figure 5 and description thereof (beginning page 11, line 5) shows and describes a laser mapping system and method 500 for mapping the surface of the damaged automobile. A mapping system, for example, is able to obtain more accurate damage information from a damaged automobile than can be obtained from a video camcorder or the like, which is nothing more than a visual inspection method rather than a mapping system.

Claims 2-18, 27-29, 30-35 and 44 are allowable as depending upon allowable claim 1.

Further, Freedman in view of Mackey does not show “communicating claim information from the remote site to the insured person via the mobile electronic data collection equipment” as recited in claim 4. Although Freedman may provide claim information, such claim information is not provided via the mobile electronic data collection equipment which is also used to retrieve and record accident information at the birth of the accident.

Further with respect to claim 6, Freedman in view of Mackey does not show “making a preliminary damage estimation” and “providing a preliminary claims estimate to the insured person via the mobile electronic data collection equipment” (emphasis added). Again, the preliminary claims estimate is communicated back to the insured person via the electronic data collection equipment used to retrieve and record accident information at the birth of the accident. Such is not shown or described in Freedman in view of Mackey.

Further with respect to claims 16-18, Freedman in view of Mackey does not show electronic data collection equipment as recited in claim 2 comprising a mapping system with electronic communication capability, and where collecting accident information comprises mapping the damaged vehicle. As noted above, the mapping system maps a surface of the

vehicle, which further clarifies the distinction of video information from a mapping system for mapping the surface of a damaged vehicle to assess the extent of vehicle damages for claims purposes.

Further with respect to claim 17, Freedman in view of Mackey does not show a laser mapping system. As understood by those of ordinary skill in the art, a laser mapping system by definition is a 3 dimensional (3D) measuring tool allowing sophisticated mathematical calculations and comparisons to be made (ideally by an expert system).

Further with respect to claim 27, Freedman in view of Mackey does not show “dispatching a tow truck to retrieve and deliver a replacement vehicle to the accident site” and “retrieving, by the dispatched tow truck, the damaged vehicle” as recited in claim 27. Although Freedman mentions dispatching tow trucks in numerous places (paragraphs 126, 132, 141, 143, 227, 255) for purposes of retrieving the damaged vehicle at the accident site, Freedman does not show or describe dispatching a tow truck *which retrieves and delivers a replacement vehicle to the accident site* as recited in claim 27. Such is not known and is certainly not obvious in view of Freedman and Mackey.

Further with respect to claim 28, Freedman in view of Mackey does not show “dispatching a tow truck to retrieve and deliver a repaired vehicle to the insured person” and “retrieving, by the dispatched tow truck, the replacement vehicle”. Although Freedman mentions dispatching tow trucks in numerous places (paragraphs 126, 132, 141, 143, 227, 255) for purposes of retrieving the damaged vehicle at the accident site, Freedman does not show or describe dispatching a tow truck for the purpose of delivering a repaired vehicle to the insured and retrieving the replacement vehicle as recited in claim 28.

Further with respect to claims 30-35, Freedman in view of Mackey does not show providing a claims wizard at the remote site that operates as an expert system which uses new accident information and the aggregate damage and accident information to assist in damage assessment as recited in claim 30. At most Freedman shows a data storage system (paragraph 125) and automatically calculating current prices for parts and labor (paragraph 130), but Freedman does not describe using aggregate damage and accident information to assist in damage assessment.

Further with respect to claim 31, Freedman in view of Mackey does not show employing similar-type vehicle information from the master database by the claims wizard.

Further with respect to claim 32, Freedman in view of Mackey does not show employing similar-type accident information from the master database by the claims wizard.

Further with respect to claim 33, Freedman in view of Mackey does not show providing wireless mobile electronic data collection equipment for availability at accident sites, using the mobile electronic data collection equipment to retrieve accident information and to transmit the accident information to the remote site, and interactively cooperation by the claims wizard with the wireless mobile electronic data collection equipment regarding particular data collection parameters.

Further with respect to claim 34, Freedman in view of Mackey does not show the claims wizard transmitting instructions to the wireless mobile electronic data collection equipment to facilitate collecting any additional information regarding the accident to facilitate damage assessment.

Further with respect to claim 35, Freedman in view of Mackey does not show the claims wizard transmitting instructions to the wireless mobile electronic data collection equipment for taking digital images of certain parts of the damaged vehicle. The video camcorders described in Freedman and/or Mackey are not described as having any such instruction providing capabilities.

Appellant respectfully submits, therefore, that claims 1-18, 27-29, 30-35 and 44 are allowable over Freedman in view of Mackey and requests withdrawal of this rejection.

Freedman does not show a claims process method employing a mapping system to map a vehicle to generate damage information, and using the damage information in an attempt to assess complete vehicle damages for claim purposes as recited in claim 45. Freedman discusses the use of a digital video camcorder (paragraph 121) for taking full-motion digital videos of the vehicle(s) (paragraph 128). A video camcorder is not a mapping system and is not capable of mapping a damaged vehicle as recited in claim 45. Although the present invention is not limited to the particular embodiments shown and described in the application as filed, a laser mapping system and method 500 as described therein is capable of mapping the surface of the damaged automobile. A mapping system is able to obtain more accurate damage information from a damaged automobile than can be obtained from a video camcorder or the like, which is nothing more than a visual inspection method rather than a mapping system. A camera, whether still or motion, is a 2 dimensional (2D) capture device which is unable to measure depth and thus incapable of assessing complete vehicle damage.

For further clarification, claim 45 was amended to recite that the mapping system maps “a surface” of the vehicle, which further clarifies the distinction of video information from a mapping system for mapping the surface of a damaged vehicle to assess the extent of vehicle damages for claims purposes. It is further noted that the mapping information of the surface of the damaged information is used “to assess complete vehicle damages” (emphasis added) in which internal damages may be inferred or implied from the surface mapping information in order to determine more complete damage information as originally claimed.

Appellant respectfully submits, therefore, that claim 45 is allowable over Freedman and requests withdrawal of this rejection.

CONCLUSION

Accordingly, Appellant respectfully submits that claims 1-18, 27-29, 30-35 and 44 are allowable over Freedman in view of Mackey and claim 45 is allowable over Freedman. Appellant therefore requests that the Board reverse the final rejections of the claims involved in this Appeal and that these claims be allowed and the patent passed to issuance.

Respectfully submitted,

Date: September 22, 2009

By: /Gary Stanford/
Gary R. Stanford
Reg. No. 35,689

Gary R. Stanford
Huffman Law Group, PC
Customer Number 23669

CLAIMS APPENDIX

APPLICATION CLAIMS INVOLVED IN THIS APPEAL

1. A method of facilitating the claims and repair process for an insured person, comprising:

collecting accident information at birth of an accident involving a vehicle that gets damaged, wherein said collecting accident information includes employing a mapping system to map a surface of a vehicle to generate damage information;

communicating the accident information including the damage information to a remote site; and

posting the accident information including the damage information on behalf of the insured person for purposes of selecting repair and supplier parties.

2. The method of claim 1, further comprising:

providing electronic data collection equipment; and

said collecting accident information comprising using the electronic data collection equipment to retrieve and record accident information.

3. The method of claim 2, the electronic data collection equipment comprising mobile electronic data collection equipment, wherein said collecting accident information comprises retrieving and recording accident information at the birth of the accident.

4. The method of claim 3, further comprising:

communicating claim information from the remote site to the insured person via the mobile electronic data collection equipment.

5. The method of claim 4, wherein the claim information includes a claim number.

6. The method of claim 4, further comprising:

making a preliminary damage estimation; and

providing a preliminary claims estimate to the insured person via the mobile electronic data collection equipment.

7. The method of claim 3, wherein said providing electronic data collection equipment comprises distributing mobile electronic data collection equipment to insured persons.

8. The method of claim 3, wherein said providing electronic data collection equipment comprises distributing mobile electronic data collection equipment to tow truck drivers or other third parties.

9. The method of claim 3, the mobile electronic data collection equipment incorporating a digital camera, wherein said collecting accident information comprises taking digital images.

10. The method of claim 9, the mobile electronic data collection equipment further incorporating wireless communications, wherein said electronically communicating the accident information comprises wirelessly communicating digital images.

11. The method of claim 9, wherein said taking digital images includes taking digital images of damaged vehicles and images associated with the scene of the accident including concomitant environmental conditions.

12. The method of claim 9, wherein said taking digital images includes images of injured persons.

13. The method of claim 3, the mobile electronic data collection equipment incorporating a bar code scanner, wherein said collecting accident information comprises scanning a bar coded vehicle identification number of a damaged vehicle.

14. The method of claim 3, the mobile electronic data collection equipment incorporating wireless communications, wherein said electronically communicating the accident information comprises wirelessly transmitting the accident information.

15. The method of claim 3, the mobile electronic data collection equipment configured to store the accident information and for interfacing a PC dispatch system coupled to a communication network, further comprising:

providing a PC dispatch system at a facility;

retrieving the insured person's damaged vehicle and the mobile electronic data collection equipment at the accident site and delivering to the facility;

coupling the mobile electronic data collection equipment to the PC dispatch system; and

the PC dispatch system retrieving the accident information from the mobile electronic data collection equipment and electronically communicating the accident information via the communication network.

16. The method of claim 2, the electronic data collection equipment comprising the mapping system with electronic communication capability.

17. The method of claim 16, wherein the mapping system comprises a laser mapping system.

18. The method of claim 16, the electronic communication capability comprising wireless communications, wherein said electronically communicating the accident information comprises wirelessly transmitting mapped information via the communication network.

27. The method of claim 1, further comprising:

dispatching a tow truck to retrieve and deliver a replacement vehicle to the accident site;

and

retrieving, by the dispatched tow truck, the damaged vehicle.

28. The method of claim 27, further comprising:

dispatching a tow truck to retrieve and deliver a repaired vehicle to the insured person;

and

retrieving, by the dispatched tow truck, the replacement vehicle.

29. The method of claim 1, further comprising:

providing a computer with estimation software at the remote site to assist and facilitate assessment of the accident information to identify a claims estimate by a claims adjuster.

30. The method of claim 1, further comprising:

providing a master database incorporating aggregate damage and accident information of other accidents; and

providing a claims wizard at the remote site that operates as an expert system which uses new accident information and the aggregate damage and accident information to assist in damage assessment.

31. The method of claim 30, further comprising employing, by the claims wizard, similar-type vehicle information from the master database.

32. The method of claim 30, further comprising employing, by the claims wizard, similar-type accident information from the master database.

33. The method of claim 30, further comprising:

providing wireless mobile electronic data collection equipment for availability at accident sites, wherein said collecting accident information comprises using the mobile electronic data collection equipment to retrieve accident information and to transmit the accident information to the remote site; and

the claims wizard interactively cooperating with the wireless mobile electronic data collection equipment regarding particular data collection parameters.

34. The method of claim 33, further comprising:

the claims wizard transmitting instructions to the wireless mobile electronic data collection equipment to facilitate collecting any additional information regarding the accident to facilitate damage assessment.

35. The method of claim 33, further comprising:

the wireless mobile electronic data collection equipment including a digital camera for wirelessly communicating digital images to the remote site; and

the claims wizard transmitting instructions to the wireless mobile electronic data collection equipment for taking digital images of certain parts of the damaged vehicle.

44. The method of claim 1, further posting claim activity and repair process for enabling the insured person to monitor progress.

45. A claims process method, comprising:

employing a mapping system to map a surface of a vehicle to generate damage information; and

using the damage information in an attempt to assess complete vehicle damages for claim purposes.

EVIDENCE APPENDIX

There was no evidence submitted pursuant to 37 C.F.R. §§1.130, 1.131 or 1.132.

RELATED PROCEEDINGS APPENDIX

None.